

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

Plaintiff

v.

JUAN GABRIEL AYALA-RIVERA

Defendant

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Criminal No. 04-54(SEC)

OPINION AND ORDER

Before the Court is the U.S. Probation Office's Motion Informing Supervise Release Violations and Request for an Arrest Warrant (Docket # 260). The Court ordered the issuance of an arrest warrant (Docket # 261) and Defendant was brought before U.S. Magistrate-Judge Aida Delgado-Colón for a Show Cause Hearing. A Show Cause Hearing was held on August 22, 2005 and, on September 6, 2005, Magistrate Delgado-Colón issued her Report and Recommendation (Docket # 270). Magistrate Delgado-Colón recommended that Defendant be allowed to continue under supervision while participating at an in-patient drug rehabilitation treatment. None of the parties have filed objections to the Magistrate's Report and the time allotted for doing so has expired. Therefore, the Court will **APPROVE** and **ADOPT** the Magistrate's Report and Recommendation and will modify Defendant's conditions of release accordingly.

Standard of Review

The scope of review of a Magistrate's recommendation is set forth in 28 U.S.C. § 636(b)(1)(c). This section provides that "[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified findings or recommendations to which [an] objection is made." Id. The Court can "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate," however, if the affected party fails to timely file objections, "the district court can assume that they have agreed to the magistrate's recommendation." Alamo-Rodríguez v. Pfizer Pharms., Inc., 286 F. Supp. 2d

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144, 146 (D.P.R. 2003) (quoting Templeman v. Chris Craft Corp., 770 F.2d 245, 247 (1st Cir. 1985)). Thus, no review is required of those issues to which objections are not timely raised. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986); Borden v. Sec'y of Health & Human Servs., 836 F.2d 4, 6 (1st Cir. 1987). In fact, a party who fails to file any objections to the Magistrate Judge's Report and Recommendation within ten days of its filing waives his or her right to appeal from the district court's order. Henley Drilling Co. v. McGee, 36 F.3d 143, 150-51 (1st Cir. 1994); United States v. Valencia-Copete, 792 F.2d 4, 5 (1st Cir. 1986); Davet v. Maccarone, 973 F.2d 22, 30-31 (1st Cir. 1992) (“[f]ailure to raise objections to the Report and Recommendation waives that party's right to review in the district court and those claims not preserved by such objection are precluded on appeal”).

Analysis and Conclusion

Neither party has objected to the Magistrate Judge's Report and Recommendation, thus we are not required by law to review it. However, upon review, we find no fault with Magistrate Judge Delgado-Colón's assessment and thus **APPROVE** and **ADOPT** her Report and Recommendation as our own. Consequently, Defendant's conditions of release are modified to allow Defendant to continue under supervision while participating at an in-patient drug rehabilitation treatment program.

SO ORDERED.

In San Juan, Puerto Rico, this 4th day of October, 2005.

S/ *Salvador E. Casellas*
SALVADOR E. CASELLAS
U.S. Senior District Judge